

BEFORE THE
BOARD OF PSYCHOLOGY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GAYLE CULUKO
5503 Esmeralda Street
Sacramento, CA 95820

Respondent.

File No. W237

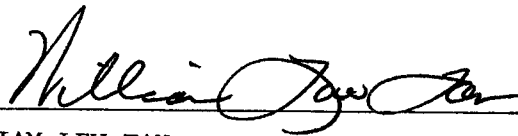
OAH No. N2003070288

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Psychology as its Decision in the above-entitled matter.

This Decision shall become effective on February 8, 2004.

IT IS SO ORDERED January 9, 2004.



WILLIAM LEW TAN
PRESIDENT, BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against

GAYLE CULUKO, PH. D.
5503 Esmeralda Street
Sacramento, CA 95820

Psychologist License No. PSY-16191

Respondent.

Case No. 1F-2001-125107

OAH No. 2003070288

PROPOSED DECISION

This matter was heard by Karl S. Engeman, Administrative Law Judge, Office of Administrative Hearings, State of California, on October 20-24, and 27, 2003, in Sacramento, California.

Mara Faust, Deputy Attorney General, represented the complainant.

Respondent Gayle Culuko, Ph.D., appeared and represented herself.

Evidence was received and the record left open for respondent to submit a copy of an audio tape (exhibit J) to complainant to compare it to the transcript prepared by respondent (exhibit I) and for complainant to raise any objections relating to the accuracy of the transcription. On November 4, 2003, a letter was received from complainant verifying the accuracy of the transcript and the matter was submitted on November 4, 2003.

CASE SUMMARY

In late summer 2000, M.L. saw respondent at the suggestion of an attorney handling M.L.'s social security disability claim. Respondent provided therapy to M.L. on approximately three occasions. Respondent, who is also a registered nurse, recognized symptoms consistent with a brain tumor in M.L. Respondent invited M.L. to move into her home. M.L. accepted the invitation and moved into respondent's home where she stayed for approximately two and a half months during which respondent assisted her in obtaining medical treatment which confirmed the brain tumor. Respondent also assisted in obtaining a neurosurgeon to perform the surgical procedure to excise the tumor. During the time that M.L. stayed with respondent, respondent completed a written psychological evaluation for her. M.L. moved out of respondent's home shortly before the surgery. M.L. moved back

into respondent's home for approximately two months in late spring 2001 because she was facing eviction from her apartment. The charges in this matter stem from respondent's multiple relationships with M.L., the physical manner in which she occasionally dealt with her, respondent's failure to retain documents supporting her forensic evaluation, and errors contained within the evaluation.

FACTUAL FINDINGS

1. Complainant Thomas S. O'Connor (complainant), acting in his official capacity as the Executive Office of the Board of Psychology (the Board), filed the accusation against respondent Gayle Culouko, Ph.D. (respondent).

2. On or about February 2, 1999, the Board issued Psychologist License Number PSY-16191 to respondent. The license will expire on September 30, 2004, unless renewed.

3. On or about July 10, 2000, respondent saw M.L. for the first time. M.L. was being represented in a social security disability claim by an attorney who had an office in the same complex as respondent. M.L. had been receiving therapy for more than a year from a male psychologist with whom she was not satisfied. Her attorney mentioned that respondent, whom she did not know, had an office in the complex and suggested that M.L. try her. On the first visit with respondent, M.L. told respondent that she was suffering from depression and other psychological symptoms resulting from sexual harassment by her former employer against whom she had filed a civil suit and a worker's compensation claim. She described the circumstances which led to her seeking therapy. M.L. told respondent she was living in a room in her ex-husband's home and was financially desperate, having abruptly left her job after the sexual harassment by a supervisor. Respondent explained that she charged between nothing and \$20 per session depending on the patient's financial circumstances. M.L. was charged \$20 but did not actually pay respondent for the session with her. The same amount was charged for subsequent visits but M.L. did not pay on any of those occasions either.

4. Respondent scheduled a second therapy session with respondent on or about July 17, 2000, but M.L. did not show up for the session and did not call to cancel. The next therapy session was on or about July 31, 2000. During this session, M.L. continued with her recitation of events that led to her complaints. M.L. told respondent that she was not comfortable living in her ex-husband's home and that she had to give up a vehicle that she was using for transportation because of the expense. The next session was on or about August 17, 2000. During this session, M.L. exhibited symptoms that respondent recognized as consistent with either Multiple Sclerosis (from which respondent suffers) or a brain tumor. These included an unsteady gait, uneven pupils, and ringing in M.L.'s ears. With M.L.'s consent, respondent using her nursing experience and education performed a gross neurological exam including a Babinski test. The Babinski test was positive and it, along with other symptoms, caused respondent to be relatively certain that M.L. had a brain tumor. She told M.L. about her impressions.

5. Either during the August 17 session or in a follow up phone call on or about August 20, 2000, respondent invited respondent to come and live in her home. Without further discussion, on or about August 25, 2000, M.L. arrived at respondent's home while respondent was at her office. She brought her clothes and other personal items. Respondent's then live-in boy friend called respondent and told her that a woman was at the home expecting to move in. Respondent spoke with M.L. on the phone and confirmed the invitation with her boyfriend, explaining that M.L. was homeless and had a brain tumor. Respondent gave M.L. her bedroom and slept on the couch for the approximately two and a half months that M.L. stayed in respondent's home.

6. After M.L. moved into respondent's home, respondent began helping her obtain a Magnetic Resonance Imaging test (MRI) to determine if she did have a brain tumor. M.L. had no medical insurance although she had seen various physicians in connection with her pending legal claims. Respondent assisted in obtaining a primary care physician for M.L. in an indigent care clinic. He referred M.L. for the MRI. The MRI results on or about August 28, 2000, confirmed a relatively large brain tumor (Acoustic Neuroma). With the MRI confirmation, respondent contacted some of her former nursing students who were then nurses at medical facilities in Sacramento to obtain the names of neurosurgeons who might perform the necessary surgery to remove the benign tumor, considering M.L.'s economic circumstances. She located a neurosurgeon who agreed to perform the procedure and it was initially scheduled for on or about October 30, 2000. On or about October 1, 2000, M.L.'s claim for Social Security disability benefits was granted and she became Medi-Cal eligible. The surgery was postponed so she could apply for coverage of the surgery costs through Medi-Cal. Respondent helped her complete and submit the necessary documents. The surgery was rescheduled for November 14, 2000. During the period that M.L. was living with respondent, respondent attended at least one medical appointment with M.L. and loaned M.L. her automobile on other occasions to drive to appointments. During this same period of time, respondent also spoke by phone with M.L.'s ex-husband and two of her daughters. She asked them for help financing the medical care and to care for M.L. following the surgery. She also spoke by telephone with attorneys representing M.L. in her worker's compensation claim and civil suit based on sexual harassment. She told them she was no longer M.L.'s "doctor" because she had undertaken care for her as a nurse.

7. Along with the approval of her Social Security disability claim, M.L. received a benefits check for approximately \$6,000. M.L. gave respondent a check for \$500 on or about October 5, 2000. On the check, M.L. wrote "for kindness." In earlier discussions, respondent had told M.L. that if M.L. was successful in her litigation, to just give respondent what M.L. regarded as a fair amount. M.L. regarded the payment as compensation for therapy as well as kindness and support. After M.L. received the approximately \$6000, it was decided in discussions with respondent that M.L. should obtain her own place to live while she recuperated from the upcoming surgery. Diane Ewing, a nurse and former nursing student of respondent's, assisted M.L. in finding a suitable place to live. An apartment belonging to Ewing's elderly friend was located and M.L. began moving her personal belongings into the apartment in October, 2000. While the arrangement did not work out because of the owner's concerns about noise created by M.L. and her acquaintances and her

water use, M.L. did move out of respondent's home between on or about October 9 and on or about October 13, 2000.

8. M.L.'s surgery was performed on or about November 14, 2000, and it was generally successful. Respondent did call the hospital where M.L. was recuperating on two occasions to ask about her condition and was told that the surgery had gone very well.

9. On August 31, 2000, respondent signed a 35 page report addressed to Workers Compensation Insurance regarding M.L. Respondent cited the reason for referral as a request to submit a psychological evaluation for assessment of M.L. for workers compensation insurance, although the requestor is not identified. Respondent stated that she had been administering treatment to M.L. from July 10, 2000, to the date of the report on a weekly to bi-weekly basis. She stated that she would continue to treat M.L. for as long as she was symptomatic. Respondent acknowledged in the report the review of an assessment of M.L. by Dr. Levine, a psychiatrist. Respondent administered a number of psychological tests including the Minnesota Multiphasic Personality Inventory-2 (MMPI), Hamilton Anxiety Scale, SCL-90-R, Post Traumatic-40 Scale, Beck Depression Inventory, Millon Clinical Inventory-3 and the Rorschach. The results of the tests were discussed and used to buttress respondent's conclusion that M.L. was totally disabled owing to the symptoms referable to the sexual harassment by her former employer. In the treatment plan, respondent included contacting M.L.'s primary care physician for a completed physical examination with blood work to rule out any secondary medical problems caused by stress. The next two sentences read: "Ask the physician to evaluate the patient for anti-depressant medications. Done July 2000: patient is ingesting Zoloft and Deseyrel anti-depressant medications and Visetral for anxiety."

10. At some point, respondent gave a copy of the report described above to M.L. although the time of delivery was not established by the evidence. M.L. said that she did not get the report until she moved back in with respondent in the spring of 2001. Respondent said that she gave the signed report to M.L. sometime during the first stay. In either case, respondent knew that the worker's compensation claim and related civil case were still pending.

11. Respondent did not talk again to M.L. until in or about April of 2001. At that time M.L. called and said that she was being evicted from her apartment because she could not pay the rent. M.L. asked respondent if she could stay for a few days with respondent while she looked for a less expensive rental in respondent's neighborhood. Respondent reluctantly agreed. During her stay, respondent again loaned her car to M.L. to run errands. The few days stretched to early June, 2001, but respondent did not ask M.L. to leave. In early June, respondent received a phone call from M.L. who was involved in a discussion with a man who was also living in respondent's home. The man, whose first name is Robert and is mildly retarded, had agreed to care for respondent's many animals when she took her annual trip to the East Coast later that summer. He had moved into the home approximately five days earlier to get to know the animals and to become comfortable in the home. Respondent spoke with M.L. and Robert on the phone. M.L. accused respondent of having

made disparaging remarks about her to Robert. Robert told respondent that M.L. said that respondent had ridiculed him for being retarded. Respondent told M.L. on the phone that she would not have her staying in her house any longer and demanded that she get out that night. M.L. swore at her in response. That night when respondent arrived home, she told Robert that things were not working out and she suggested that he leave. He did so. M.L. had already left with most of her belongings.

FINDINGS ON FIRST CAUSE OF DISCIPLINARY ACTION

12. Respondent's conduct of providing housing and other described services for patient M.L. in 2000 and 2001 constituted a multiple-relationship which impaired respondent's objectivity as both a therapist and forensic evaluator and which interfered with her effectiveness in both capacities. Such conduct constitutes an extreme departure from the applicable standard of care for licensed psychologists.

13. During the months between respondent's initial therapy for M.L. and her exodus from respondent's home, respondent engaged in multiple relationships with M.L. including social worker, roommate, nurse, and personal friend. Respondent conceded in her testimony that she knew that the offer of housing created a "dual relationship" and that such conduct could result in the loss of her license. She acknowledged that it was a "given" and a common sense proposition that a psychologist does not take patients home. She further acknowledged that the second occasion was more egregious because there was no medical emergency that justified her intervention. Respondent described her very different assessment of M.L. as an evaluator based on what she observed when M.L. lived in her home on the two occasions.

14. During her opening statement and throughout her case, respondent defended her conduct on the first occasion as ethically required to save M.L.'s life. She contended that M.L.'s suspected brain tumor was a life-threatening situation and because M.L. was homeless, penniless, and without access to urgent medical care, she was required to keep her "at arm's length"¹ so she could expeditiously arrange for diagnostic testing and follow up surgery, if necessary. Complainant's expert witness expressed that even under such exigent circumstances; a competent psychologist does not intervene in a manner which compromises his or her role as therapist or evaluator. It is not necessary to determine that question however because the evidence did not support respondent's description of the dire situation. M.L. was living with her ex-husband when she saw respondent and had been for at least six months. She did not tell respondent, as respondent testified, that she was kept in a closet. In respondent's own psychological report, she stated that M.L. had moved in with her ex husband in April of 1999, that their relationship was platonic and that she occupied separate quarters. Elsewhere in the report, respondent reported that M.L. was "isolated in a room" in her ex-husband's home, uncomfortable to go out because of her feeling of panic. She only

¹ It was clear that respondent meant to imply that she needed to have M.L. close by rather than the usual meaning attributed to the phrase in a legal context-maintaining an appropriate figurative distance.

became "homeless" after moving her belongings out of her ex-husband's home to transfer them to respondent's home in late August, 2000. Contrary to respondent's testimony, respondent was seeing one or more physicians as respondent's own report acknowledges. Respondent did testify that on the third visit, when she conducted her neurological exam of M.L., M.L. lifted her shirt and there were visible black and blue marks from apparent abuse by the ex-husband. M.L. never suggested in her testimony that she had been beaten by her ex-husband and no reference to such conduct is contained in respondent's written evaluation prepared after M.L. had moved in with respondent. In sum, this testimony by respondent was not credible.

FINDINGS ON SECOND CAUSE FOR DISCIPLINE

15. No specific findings are made as the rule cited by complainant does not apply to the circumstances of this case. There was no allegation that respondent was experiencing temporary or more enduring problems in her own personality which may have interfered with her ability to maintain a sound interpersonal relationship with M.L. or any other patient or evaluatee.²

FINDINGS ON THIRD CAUSE FOR DISCIPLINE

16. Respondent did hug M.L. on several occasions during M.L.'s visits to her office. This did not occur on the first visit but did occur thereafter in the doorway of respondent's office and when respondent comforted M.L. on the third visit after M.L. had fallen to the floor. Respondent did refer to M.L. as "Love," on visits following the first visit. It was not established that respondent hugged M.L. on the first visit or that respondent kissed her on the mouth on any occasion. It was not established that respondent called M.L. "Dearie." M.L. confirmed respondent's testimony that the hugs and term of endearment were simply reflective of what M.L. described as respondent's "touchy, feely" manner of relating to other people. It was not established that the physical contact established constituted an extreme departure from the applicable standard of care, or even that it constituted a simple departure from that standard.

FINDINGS ON FOURTH CAUSE FOR DISCIPLINE

17. Respondent maintained no records relating to either her treatment or evaluation of M.L. Respondent admitted that in accordance with her practice at the time, she destroyed the actual tests (raw data) for the psychological tests she administered to M.L. including the MMPI, Hamilton Anxiety Scale, SCL-90-R, Post Traumatic-40 Scale, Beck Depression Inventory, Millon Clinical Inventory-3 and the Rorschach. She did so to avoid what she perceived as the general misuse of such data against patients and evaluatees in

² Title 16 California Code of Regulations section 1396.1.

litigation. When she took M.L. into her home, she gave the remaining records including her notes and a partially completed handwritten psychological examination to M.L. She kept no copies of the records. Respondent's failure to maintain the records for at least three years was an extreme departure from the applicable standard of care.

FINDINGS ON THE FIFTH CAUSE OF DISCIPLINE

18. M.L., with the assistance of Theresa Mejia, a friend and former nursing student of respondent's, typed the forensic evaluation which was delivered in handwritten form to M.L. by respondent. Respondent did not type and did not have access to clerical support other than that provided by Theresa on a few occasions as a personal favor to respondent. Most of the typing was done by M.L. and the report was jointly edited by respondent and M.L. before respondent signed it on August 31, 2000. It was not established that there were material errors in the report which reflected an extreme departure from the applicable standard of care.

FINDINGS ON SIXTH CAUSE FOR DISCIPLINE

19. Respondent's conduct did not constitute repeated simple departures from the applicable standards of care other than those instances in which it was previously found the respondent's conduct was an extreme departure from such standard.

CREDIBILITY FINDINGS

20. The factual findings in this matter were particularly difficult because neither of the two principal percipient witnesses, respondent and M.L., were entirely credible. In many instances, their versions were entirely consistent. Where there were inconsistencies, the factual findings reflect the version which was most believable. This determination was not a matter of demeanor assessment-both witnesses appeared credible when testifying with little in the way of observed demeanor, manner or attitude which reflected unfavorably on them.³ However, respondent's testimony in certain areas was impeached by internal inconsistencies and by contrary statements in her report. M.L.'s testimony was impeached in certain areas by the very credible testimony of two corroborating witnesses called by respondent.

OTHER FINDINGS/MITIGATION

21. Respondent was born in 1943. She attended Hackensack Hospital School of Nursing from 1963 until 1966 and received a Registered Nurse Diploma. She received her

³ See Gov't Code section 11425.50.

Bachelors of Science in Nursing from the University of Pennsylvania in 1969. In 1976, she obtained an Associate of Arts Degree in Fine Arts from Monterey Peninsula College. In 1977, she obtained her Master of Nursing Science in Community Health Nursing from California State University, San Jose. She attended University of the Pacific from 1987 until 1994, obtaining her Doctorate Degree, Counseling Psychology. Respondent served as a Captain in the United States Army Nurse Corp from 1969 until her honorable discharge in 1972. Her tour included service in Long Binh, Vietnam, during the Vietnam Conflict. From 1986 until 1991, she was a nursing instructor in the Division of Nursing, California State University, Sacramento. From 1981 until 1997, she was a nursing instructor in the B.S.N. statewide nursing program for the same institution. In 1999, she was awarded the Outstanding Educator Award within the statewide nursing program.

22. Respondent described her practice in the year 2000 as 97 to 99% therapy with 75% of her patients being what she described as "street people." She did less than five forensic evaluations, including the one that she prepared for M.L. She did not even understand until this matter arose that the preparation of reports in the context of workers compensation claims, civil suits, social security claims and other litigation is generally considered "forensic psychology." She had never seen or referred to standards for such work.

23. At the conclusion of the hearing, respondent acknowledged that she now understands the need to keep raw data when psychological tests are administered because the destruction of such data precludes full and fair discovery by other parties to legal proceedings and could diminish or destroy her credibility as a forensic evaluator to the detriment of the evaluatee. However, her solution to the dilemma she perceives between this ethical obligation and her concern about the misuse of such data by other parties is to simply avoid doing such testing and to refuse forensic evaluations when the attorney insists that such testing be included.

COST RECOVERY

24. While the Accusation prayed for the award of actual and reasonable costs, no evidence was submitted in support of such costs and no award is therefore appropriate.

LEGAL CONCLUSIONS

1. The standard of proof in an administrative hearing to revoke or suspend a psychologist's license is clear and convincing proof to a reasonable certainty and not a mere preponderance of the evidence. *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.

2. Business and Professions Code section 2960⁴ provides, in pertinent part:

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(r) Repeated acts of negligence.

3. The Business and Professions Code does not define "gross negligence". "Gross negligence" is defined by case law as the want of even scant care, or an extreme departure from the standard of care in the professional community. *Gore v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 184; *Franz v. Board of Medical Quality Assurance* (1982) 31 Cal.3d 124.

4. Title 16 California Code of Regulations Section 1396.1 states:

It is recognized that a psychologist's effectiveness depends upon his or her ability to maintain sound interpersonal relations, and that temporary or more enduring problems in a psychologist's own personality may interfere with this ability and distort his or her appraisals of others. A psychologist shall not knowingly undertake any activity in which temporary or more enduring personal problems in the psychologist's personality integration may result in inferior professional services or harm to a patient or client. If a psychologist is already engaged in such activity when becoming aware of such personal problems, he or she shall seek competent professional assistance to determine whether services to the patient or client should be continued or terminated.

⁴ All statutory references are to the Business and Professions Code unless otherwise specified.

FIRST CAUSE FOR DISCIPLINE

5. Respondent was guilty of gross negligence and is thereby subject to discipline pursuant to section 2960(j) by reason of Factual Findings 12 through 14.

SECOND CAUSE FOR DISCIPLINE

6. It was not established that respondent was guilty of violating Title 16 California Code of Regulations section 1396.1 in conjunction with sections 2960 (i) and (k).

THIRD CAUSE FOR DISCIPLINE

7. It was not established that respondent is subject to discipline pursuant to section 2960(j) as alleged in the third cause for discipline.

FOURTH CAUSE FOR DISCIPLINE

8. Respondent was guilty of gross negligence and is thereby subject to discipline pursuant to section 2960(j) by reason of Factual Finding 17.

FIFTH CAUSE FOR DISCIPLINE

9. It was not established that respondent was guilty of violating section 2960(j) as alleged in the fifth cause for discipline.

SIXTH CAUSE FOR DISCIPLINE

10. It was not established that respondent was guilty of violating section 2960(r) as alleged in the sixth cause for discipline.

APPROPRIATE ORDER CONSIDERATIONS

11. Respondent's conduct and explanations offered at hearing demonstrate that respondent should not be permitted to perform forensic evaluations. Her destruction of test data and her rationale for doing so reveal that she still has no appreciation for the proper role of a forensic psychologist. She clearly perceives that role as that of an advocate for the evaluatee, even going so far as destroying data which she believes could be used by a party opponent against the person evaluated. She seemed unable to understand or appreciate that the appropriate use of data by trial or hearing adversaries is the responsibility of the presiding officer in such settings, not the psychologist. And while she acknowledged at the end of the administrative hearing in this matter that she must no longer destroy the actual tests, her solution in the future is to simply avoid using standard psychological tests. The multiple-relationship prohibition she did seem to understand although at one point she stated that the only prohibited dual-relationship was one involving sexual relations. This was only one of

several startling statements of respondent including that she was subject to no ethical rules other than those specifically set out in the Business and Professions Code and interpretive rules. She asserted that she was unaware of any professional standards within her profession apart from ethical codes promulgated by professional organizations which she believes only apply to members of such organizations. Another such statement was that she never learned in her training to become a clinical psychologist that she was required to maintain notes relating to treatment or evaluation.

With appropriate remedial training, particularly in boundary issues and record keeping, respondent is fit to continue as a therapist with appropriate oversight by the Board. Her motives for initially offering assistance to M.L. including housing were altruistic, although misguided and based on a false portrayal of M.L.'s circumstances seemingly tailored to fit respondent's compulsion to help resolve M.L.'s medical crisis. This is consistent with her testimony about what she perceives as her unique role of assisting "street people." When the facts are viewed objectively, it is clear that respondent could have provided effective assistance to M.L. for her serious medical problem without compromising her objectivity as a therapist.

ORDER

Psychologist's license no. PSY-16191 and licensing rights issued by the Board of Psychology to respondent Gayle Culuko, Ph.D., are revoked; provided, however, the order of revocation is stayed and respondent's license is placed on probation for five (5) years on the following terms and conditions:

1. Coursework--Respondent shall take and successfully complete not less than 40 hours coursework in the first year of probation in the following areas: the psychologist/therapist and patient relationship and/or boundary issues. Coursework must be pre-approved by the Board or its designee. All coursework shall be taken at the graduate level at an accredited educational institution or by an approved continuing education provider. Classroom attendance is specifically required; correspondence or home study coursework shall not count toward meeting this requirement. The coursework must be in addition to any continuing education courses that may be required for license renewal.

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval a plan for meeting this educational requirement. All costs of the coursework shall be paid by the respondent.

2. Ethics Course--Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval a single course in law and ethics as they relate to the practice of psychology. Said course must be successfully completed at an accredited educational institution or through a provider approved by the Board's accreditation agency for continuing education credit. Said course must be taken and

completed within one year from the effective date of this Decision. The cost associated with the law and ethics course shall be paid by the respondent.

3. Forensic Evaluation Prohibition--Respondent shall not undertake to perform, or perform, with or without compensation, any psychological evaluation relating to a pending legal claim or proceeding including but not limited to worker's compensation claims, social security disability claims, civil actions, and criminal proceedings. Respondent shall not author or submit any report to any legal tribunal relating to such an evaluation.

4. Probation Costs--Respondent shall pay the costs associated with probation monitoring each and every year of probation. Such costs shall be payable to the Board of Psychology at the end of each fiscal year (July 1 - June 30). Failure to pay such costs shall be considered a violation of probation. The filing of bankruptcy by respondent shall not relieve respondent of the responsibility to repay probation monitoring costs.

5. Obey All Laws--Respondent shall obey all federal, state, and local laws and all regulations governing the practice of psychology in California including the ethical guidelines of the American Psychological Association. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence.

6. Quarterly Reports--Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

7. Probation Compliance--Respondent shall comply with the Board's probation program and shall, upon reasonable notice, report to the assigned District Office of the Medical Board of California or other designated probation monitor. Respondent shall contact the assigned probation officer regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with 1) complainant(s) associated with the case; 2) Board members or members of its staff; or 3) persons serving as the Board's expert evaluators or witnesses.

8. Interview with the Board or its Designee--Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

9. Changes in Employment--Respondent shall notify the Board in writing, through the assigned probation officer, of any and all changes of employment, location, and address within 30 days of such change.

10. Tolling for Out-of-State Practice or Residence or In-State Non-Practice--In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing psychology in California, respondent shall notify the Board or its designee in writing within ten days of the dates of departure and return or the

dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty days in which respondent is not engaging in any activities defined in Sections 2902 and 2903 of the Business and Professions Code. Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period, although the Board may allow respondent to complete certain terms of probation that are not associated with active practice.

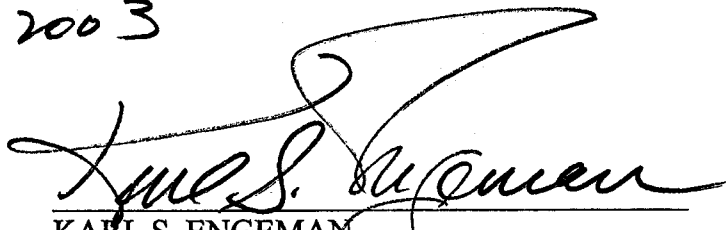
11. Employment and Supervision of Trainees--If respondent is licensed as a psychologist, he shall not employ or supervise or apply to employ or supervise psychological assistants, interns or trainees during the course of this probation. Any such supervisorial relationship in existence on the effective date of this probation shall be terminated by respondent and/or the Board.

12. Future Registration or Licensure--If respondent is registered as a psychological assistant or registered psychologist and subsequently obtains other psychological assistant or registered psychologist registrations or becomes licensed as a psychologist during the course of this probationary order, respondent agrees that this Decision shall remain in full force and effect until the probationary period is successfully terminated. Future registrations or licensure shall not be approved, however, until respondent is currently in compliance with all of the terms and conditions of probation.

13. Violation of Probation--If respondent violates probation in any respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final. No Petition for Modification or Termination of Probation shall be considered while there is an Accusation or Petition to Revoke Probation pending against respondent.

14. Completion of Probation--Upon successful completion of probation, respondent's license shall be fully restored.

Dated: 1 December 8, 2003


KARL S. ENGEMAN
Administrative Law Judge
Office of Administrative Hearings